

AMENDED IN ASSEMBLY APRIL 17, 2001

AMENDED IN ASSEMBLY APRIL 4, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1520**

**Introduced by Assembly Member Shelley**  
**(Coauthor: Assembly Member Strom-Martin)**  
**(Coauthor: Senator Romero)**

February 23, 2001

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An act to amend Sections 3011, 3017, 3203, and 18577 of, and to add Section 354.5 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1520, as amended, Shelley. Elections.

Existing provisions of the Elections Code permit the use of a mark in lieu of a signature in certain instances. Existing general provisions of law permit the use of a mark in lieu of a signature on a sworn statement only if witnessed by 2 other persons.

This bill would permit the use of a person's mark where a signature is otherwise required by the Elections Code if the person is unable to provide a signature and the mark is attested by a witness ~~designated in a prescribed declaration of the person filed with the elections official of the county where the person maintains his or her residence. The bill would not, however, supersede any provision of the Elections Code that expressly permits the use of a person's mark in lieu of a signature. The bill would impose a state-mandated local program by requiring county elections officials to maintain these declarations on file.~~

Existing law specifies the format of the identification envelope for return of an absent voter ballot.

This bill would add a requirement that, if the voter has authorized another individual to return the absent voter ballot, the absent voter envelope shall include the name, address, telephone number, and signature of the individual and the individual's relationship to the absent voter.

Existing law authorizes a voter who is unable to return an absent voter ballot by reason of illness or other physical disability to designate certain relations to return the ballot.

This bill would instead provide that a voter who is unable to return an absent voter ballot may designate any person *at least 18 years of age* to return the ballot, other than specified employees, contractors, and volunteers of committees subject to the Political Reform Act of 1974 that make contributions to candidates or in support of or opposition to ballot measures in the election. *The designation would be made by completing an authorization form on the absentee ballot identification envelope.* The bill would require the ~~voter's representative voter and the voter's designee~~ to sign the ~~identification envelope authorization in the each other's presence of the voter.~~

Existing law authorizes voters who have specified impairments or conditions to apply for permanent absent voter status.

This bill would impose a state-mandated local program by authorizing any voter to apply for permanent absent voter status. ~~The bill would also impose a state-mandated local program by requiring county elections officials to send prescribed information to the applicant with the notice of approval.~~

Existing law makes it a misdemeanor for a person having charge of a completed absent voter ballot to willfully interfere or cause interference with its return to the local elections official.

This bill would specify that this offense is punishable by imprisonment in the county jail for up to 6 months, by a fine of up to \$10,000, or by both.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 354.5 is added to the Elections Code, to  
2 read:

3 354.5. (a) "Signature" includes a person's mark if the name  
4 of the person affixing the mark is written near the mark by a  
5 witness ~~designated pursuant to subdivision (b) who over the age~~  
6 ~~of 18 years designated by the person and the designee~~ subscribes  
7 his or her own name as a witness thereto. ~~Notwithstanding Section~~  
8 ~~14 of the Civil Code, Section 17 of the Code of Civil Procedure,~~  
9 ~~or any other provision of law and except as provided in subdivision~~  
10 ~~(c), a mark so attested~~

11 (b) A mark attested as provided in subdivision (a) may serve as  
12 a signature for any purpose specified in this code, including a  
13 sworn statement.

14 (b) A person who is unable to provide a signature for any reason  
15 may designate another person over the age of 18 years to witness  
16 the person's mark by filing a declaration to that effect with the  
17 county elections official of the county in which the person  
18 maintains his or her residence. The person's declaration shall be  
19 signed by two witnesses over the age of 18 years. County elections  
20 officials shall maintain these declarations on file for purposes of  
21 verifying the authenticity of marks provided in lieu of a signature  
22 pursuant to this section.

23 (c) ~~Nothing in this section shall be deemed to supersede the~~  
24 ~~requirements of any provision of this code that expressly permits~~  
25 ~~the use of a mark in lieu of a signature, including, but not limited~~  
26 ~~to, Sections 100.5 and 2150.~~

27 SEC. 2. Section 3011 of the Elections Code is amended to  
28 read:

29 3011. The identification envelope shall contain the following:

1 (a) A declaration, under penalty of perjury, stating that the  
2 voter resides within the precinct in which he or she is voting and  
3 is the person whose name appears on the envelope.

4 (b) The signature of the voter.

5 (c) The residence address of the voter as shown on the affidavit  
6 of registration.

7 (d) The date of signing.

8 (e) A notice that the envelope contains an official ballot and is  
9 to be opened only by the canvassing board.

10 (f) A warning plainly stamped or printed on it that voting twice  
11 constitutes a crime.

12 (g) A warning plainly stamped or printed on it that the voter  
13 must sign the envelope in his or her own handwriting in order for  
14 the ballot to be counted.

15 (h) A statement that the voter has neither applied, nor intends  
16 to apply, for an absent voter's ballot from any other jurisdiction for  
17 the same election.

18 ~~(i) If the voter has authorized another individual to return the~~  
19 ~~absentee ballot on behalf of the voter, the name, address, telephone~~  
20 ~~number, and signature of that individual, and the relationship of~~  
21 ~~that individual to the absent voter, shall be included on the~~  
22 ~~identification envelope.~~

23 *(i) A form authorization that the voter may use to designate*  
24 *another person to return the absentee ballot on behalf of the voter*  
25 *pursuant to paragraph (1) of subdivision (b) of Section 3017. The*  
26 *form shall include a space in which the voter shall print the name*  
27 *of the voter's designee and two additional spaces where the voter's*  
28 *signature and the signature of the voter's designee shall be affixed.*

29 SEC. 3. Section 3017 of the Elections Code is amended to  
30 read:

31 3017. (a) All absentee ballots cast under this division shall be  
32 voted on or before the day of the election. After marking the ballot,  
33 the absent voter shall return the ballot by mail or in person to the  
34 elections official from whom it came or shall return the ballot in  
35 person to any member of a precinct board at any polling place  
36 within the jurisdiction.

37 (b) (1) ~~A By completing the form specified in subdivision (i) of~~  
38 ~~Section 3011, a voter who is unable to return his or her absentee~~  
39 ~~ballot may designate anyone of voting age, who is not ineligible~~  
40 ~~under paragraph (2), as the voter's authorized representative to~~

~~return the ballot to the elections official from whom it came or to the precinct board at any polling place within the jurisdiction. The individual authorized to return an absentee ballot pursuant to this subdivision shall sign the identification envelope in the presence of the voter. ballot may authorize another individual at least 18 years of age, who is not ineligible under paragraph (2), to return the voter's absentee ballot to the elections official from whom it came or to the precinct board at any polling place within the jurisdiction. The voter and the individual the voter designates to return the absentee ballot on behalf of the voter shall sign the authorization statement on the absentee ballot identification envelope in each other's presence.~~

(2) No person shall be eligible to be a voter's representative for purposes of paragraph (1) who is a paid employee of, a contractor providing election-related services to, or a volunteer for, any committee that has made a contribution in support of any candidate, or in support of or opposition to any ballot measure, that is before the voters in the election for which the absent voter ballot is to be cast. No person may act, pursuant to paragraph (1), as a voter's representative for compensation, whether paid by the voter or by some other person. For purposes of this paragraph, "committee" and "contribution" have the same meanings as defined in Sections 82013 and 82015 of the Government Code.

(c) In order to be counted, an absentee ballot shall be received by either the elections official from whom it came or the precinct board before the close of the polls on election day.

(d) The elections official shall establish procedures to ensure the secrecy of any ballot returned to a precinct polling place.

(e) The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section.

SEC. 4. Section 3201 of the Elections Code is amended to read:

3201. Any voter may apply for permanent absent voter status. Application for permanent absent voter status shall be made in accordance with Section 3001. The voter shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

- (a) Applicant's name at length.
- (b) Applicant's residence address.

1 (c) Address where ballot is to be mailed, if different from the  
2 place of residence.

3 (d) The signature of the applicant.

4 SEC. 5. Section 3203 of the Elections Code is amended to  
5 read:

6 3203. (a) Upon receipt of an application for permanent  
7 absent voter status, the county elections official shall process the  
8 application in the same manner as an application for a regular  
9 absent voter's ballot.

10 (b) In addition to processing applications in accordance with  
11 Chapter 1 (commencing with Section 3000), if it is determined that  
12 the applicant is a registered voter, the county elections official shall  
13 do the following:

14 ~~(1) Send a notice to the applicant indicating that his or her~~  
15 ~~application was approved. This notice shall also include an~~  
16 ~~explanation of the absentee voting procedure, and an explanation~~  
17 ~~of Section 3206.~~

18 ~~(2)~~

19 (1) Place the voter's name upon a list of those to whom an  
20 absentee ballot is sent each time there is an election within their  
21 precinct.

22 ~~(3)~~

23 (2) Include in all absentee ballot mailings to the voter an  
24 explanation of the absentee voting procedure and an explanation  
25 of Section 3206.

26 ~~(4)~~

27 (3) Maintain a copy of the absentee ballot voter list on file open  
28 to the public inspection for election and governmental purposes.

29 SEC. 6. Section 18577 of the Elections Code is amended to  
30 read:

31 18577. Any person having charge of a completed absent voter  
32 ballot who willfully interferes or causes interference with its return  
33 to the local elections official having jurisdiction over the election  
34 is guilty of a misdemeanor punishable by imprisonment in the  
35 county jail not exceeding six months, by a fine not exceeding ten  
36 thousand dollars (\$10,000), or by both.

37 SEC. 7. Notwithstanding Section 17610 of the Government  
38 Code, if the Commission on State Mandates determines that this  
39 act contains costs mandated by the state, reimbursement to local  
40 agencies and school districts for those costs shall be made pursuant

1 to Part 7 (commencing with Section 17500) of Division 4 of Title  
2 2 of the Government Code. If the statewide cost of the claim for  
3 reimbursement does not exceed one million dollars (\$1,000,000),  
4 reimbursement shall be made from the State Mandates Claims  
5 Fund.

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